with the requirements of this section, refiners who analyze composited samples under §80.1630 must retain portions of the composited samples. Portions of samples of each batch comprising the composited samples are not required to be retained.

(e) *Requirements for RBOB.* For purposes of complying with the requirements of this section for RBOB, a sample of each RBOB batch produced must be retained.

§§ 80.1632–80.1639 [Reserved]

§ 80.1640 Standards and requirements that apply to refiners producing gasoline by blending blendstocks into previously certified gasoline (PCG).

(a) Any refiner who produces gasoline by blending blendstock into PCG, as defined at §80.2(d), must meet the requirements of §80.1630 to sample and test every batch of gasoline as follows:

(1) Exclude the PCG for purposes of demonstrating compliance with the sulfur standards of this subpart O.

(2) To accomplish the exclusion required in paragraph (a)(5) of this section, the refiner must determine the volume and sulfur content of the PCG used at the refinery and the volume of and sulfur content of the gasoline produced at the refinery, and use the compliance calculation procedures in paragraphs (a)(3) and (4) of this section.

(3) For each batch of PCG that is used to produce gasoline the refiner must include the volume and sulfur content of the PCG as a negative volume and a positive sulfur content in the refiner's compliance calculations in accord with the requirements at §80.1603.

(4) For each batch of gasoline produced at the refinery using PCG and blendstock, the refiner must determine the volume and sulfur content of the combined product and include each batch of combined product for purposes of sulfur compliance in the refinery's compliance calculations at §80.1603 without regard to the presence of previously certified gasoline in the batch.

(5) The refiner must use any PCG that it includes as a negative batch in its compliance calculations pursuant to §80.1603 as a component in gasoline production during the annual averaging period in which the PCG was included as a negative batch in the refiner's compliance calculations.

(6) The refiner must also comply with §80.65(i) when producing RBOB or RFG and §80.101(g)(9) when producing conventional gasoline or CBOB.

(7) Any negative annual average sulfur value shall be reported as zero and not as a negative result.

(b) In the alternative, a refiner may sample and test each batch of blendstock when received at the refinery to determine the volume and sulfur content, and treat each blendstock receipt as a separate batch for purposes of compliance calculations for the annual average sulfur standard and for reporting. This alternative applies only if every batch of blendstock used at a refinery during an averaging period has a sulfur content that is equal to, or less than, the applicable per-gallon cap standard under §80.1603.

(c) Refiners who blend only butane into PCG may meet the sampling and testing requirements of this subpart O for sulfur by using sulfur test results of the butane supplier, provided that the requirements of §80.82 are met.

(d) Refiners who blend only blender grade pentane into PCG may meet the sampling and testing requirements of this subpart O for sulfur by using sulfur test results of the pentane supplier, provided that the requirements of §80.85 are met.

§ 80.1641 Alternative sulfur standards and requirements that apply to importers who transport gasoline by truck.

Importers who import gasoline into the United States by truck may comply with the following requirements instead of the requirements to sample and test every batch of gasoline under §80.1630, and the annual sulfur average and per-gallon cap standards otherwise applicable to importers under §80.1603:

(a) *Alternative standards.* The imported gasoline must comply with the following standards:

(1) The annual average standard of 10 ppm and the per-gallon standard of 80 ppm as provided by §80.1603; or

(2) A per-gallon standard of 10 ppm.

(b) *Terminal testing.* The importer may use test results for sulfur content

testing conducted by the terminal operator, for gasoline contained in the storage tank from which trucks used to transport gasoline into the United States are loaded, for purposes of demonstrating compliance with the standards in paragraph (a) of this section, provided all the following conditions are met:

(1) The sampling and testing shall be performed after each receipt of gasoline into the storage tank, or immediately before each transfer of gasoline to the importer's truck.

(2) The sampling and testing shall be performed using the methods specified in §§ 80.8 and 80.47, respectively.

(3) At the time of each transfer of gasoline to the importer's truck for import to the United States, th e importer must obtain a copy of the terminal test result that indicates the sulfur content of the truck load (or each compartment if fuel was loaded from different storage tanks).

(c) *Quality assurance program.* The importer must conduct a quality assurance program for each truck loading terminal as follows:

(1) Quality assurance samples must be obtained from the truck-loading terminal and tested by the importer, or by an independent laboratory, and the terminal operator must not know in advance when samples are to be collected.

(2) The sampling and testing must be performed using the methods specified in §§ 80.8 and 80.47, respectively.

(3) The quality assurance test results for sulfur must differ from the terminal test result by no more than the ASTM reproducibility of the terminal's test results, as determined by the following equation:

$$R = 105 \times ((S + 2) / 104)\ 0.4$$

Where:

R = ASTM reproducibility.

S = Sulfur content based on the terminal's test result.

(4) The frequency of the quality assurance sampling and testing must be at least one sample for each fifty of an importer's trucks that are loaded at a terminal, or one sample per month, whichever is more frequent.

(d) *Party required to conduct quality assurance testing.* The quality assurance program under paragraph (c) of this section shall be conducted by the importer. In the alternative, this testing may be conducted by an independent laboratory that meets the criteria under § 80.65(f)(2)(iii), provided the importer receives, no later than 21 days after the sample was taken, copies of all results of tests conducted.

(e) *Assignment of batch numbers.* The importer must treat each truckload of imported gasoline as a separate batch for purposes of reporting under § 80.1652 and assigning batch numbers and maintaining records under § 80.1653.

(f) *EPA inspections of terminals.* EPA inspectors or auditors, and auditors conducting attest engagements under § 80.1667, must be given full and immediate access to the truck-loading terminal and any laboratory at which samples of gasoline collected at the terminal are analyzed, and must be allowed to conduct inspections, review records, collect gasoline samples, and perform audits. These inspections or audits may be either announced or unannounced.

(g) *Certified Sulfur-FRGAS.* This section does not apply to Certified Sulfur-FRGAS.

(h) *Reporting requirements.* Any importer who elects to comply with the alternative standards in paragraph (a) of this section shall comply with all the following requirements:

(1) All importer recordkeeping and reporting requirements under §§ 80.1652 and 80.1653, except as provided in paragraph (h)(2) of this section.

(2) An importer who elects to comply with the alternative standards in paragraph (a)(2) of this section must certify in the annual report whether it is in compliance with the applicable per-gallon batch standard set forth in paragraph (a)(2) of this section, in lieu of providing the information required by § 80.1652 regarding annual average sulfur content and compliance with the average standard under § 80.1603.

(i) *Effect of noncompliance.* If any of the requirements of this section are not met, all gasoline imported by the truck importer during the time any requirements are not met is deemed in violation of the gasoline sulfur average and per-gallon cap standards in

§ 80.1603. Additionally, if any requirement is not met, EPA may notify the importer of the violation and, if the requirement is not fulfilled within 10 days of notification, the truck importer may not in the future use the sampling and testing provisions in this section in lieu of the provisions in § 80.1630.

§ 80.1642 Sampling and testing requirements for producers and importers of denatured fuel ethanol and other oxygenates for use by oxygenate blenders.

Beginning January 1, 2017, producers and importers of denatured fuel ethanol (DFE) and other oxygenates for use by oxygenate blenders must satisfy the sampling and testing requirements in this section prior to the addition of the oxygenate to gasoline or blendstocks for oxygenate blending.

(a) *Sampling requirements.* Producers and importers of oxygenates for use by oxygenate blenders shall collect a representative sample from each batch of oxygenate produced or imported prior to the oxygenate leaving the oxygenate production or import facility, using the sampling methods specified in § 80.8 or § 80.47.

(b) *Determination of oxygenate sulfur content.* Producers and importers of oxygenates must test each batch of oxygenate they produce or import to determine its sulfur content to the nearest ppm using a test method provided in § 80.47, or, with respect to DFE may use the alternative means of determining the sulfur content contained in paragraph (c) of this section.

(c) *Alternative means of determining the sulfur content of DFE.* As an alternative to testing each batch of DFE pursuant to the requirements of paragraph (b) of this section, the sulfur content of batches of DFE produced using certified denaturant meeting the requirements of § 80.1611 may be determined as follows:

(1) The sulfur content of the batch of DFE shall be calculated by volume weighting the sulfur contribution from the denaturant), and the neat ethanol used.

(2) The sulfur content of the neat (un-denatured) ethanol used in the calculation in paragraph (c)(1) of this section may be assumed to be negligible or assumed to be some specific value for the purposes of calculating the sulfur content of the DFE batch provided that the DFE manufacturer or importer conducts production quality control which demonstrates that such an assumption is valid. Otherwise, the sulfur content of the neat ethanol must be determined in accordance with the test requirements of § 80.1630.

(3) The sulfur content of the certified denaturant(s) used in the calculation in paragraph (c)(1) of this section must be consistent with the PTD(s) obtained from a registered certified ethanol denaturant producer(s) or importer(s) in accordance with the requirements of § 80.1611. If the PTD from the certified ethanol denaturant states that the sulfur content is 330 ppm, then the sulfur content of the sulfur content of the ethanol denaturant must be assumed to be 330 ppm.

(4) A sample of each batch of DFE must be retained pursuant to the requirements of § 80.1643.

(5) The sulfur content of each batch of DFE shall be reported to the nearest ppm.

§ 80.1643 Sample retention requirements for oxygenate producers and importers.

(a) *Sample retention requirements.* Beginning January 1, 2017, any producer or importer of oxygenate shall do all the following:

(1) Retain a representative portion of each sample analyzed under § 80.1642(b), of at least 330 milliliters in volume.

(2) Retain a representative sample of each batch of DFE for which the DEF producer or importer used the alternative means of determining the sulfur contents of the DFE batch pursuant to the requirements of § 80.1642(c), of at least 330 milliliters in volume.

(3) Retain sample portions for the most recent 20 samples collected, or for each sample collected during the most recent 21 day period, whichever is greater, not to exceed 90 days for any given sample.

(4) Comply with the DFE sample handling and storage procedures under § 80.1642 for each sample portion retained.

(5) Comply with any request by EPA to—